File No. 1 of 56

Serial Nos. 1–7

1906.

GENERAL AND REVENUE SECRETARIA

(Legislation)

Part A: Manuscript
for November 1907

Serial Nos. 1–7

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To

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accepts the suggestions and forwards 10 copies of the revised draft Regulation.

From

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To The Compiler, Supreme Legislative No 1682 Dt 30.11.07

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The Military Asst No 1685 Dt 30.11.07

Forwards copy of the above for information

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G. R. S. 11] 1906.

GENERAL AND REVENUE SECRETARIAT

(Legislation)

NOTES.

File. No 1 of 06-07

FILE HEADING.

Power of Civil tribunals to try offences committed by men subject to Military Regulations. ~~(Draft~~ including the question of Amendment of the Military Regulations

From

Lt: Col: R. G. Jones,

No. 273 Dated 26. 6. 06 Received 2. 7. 06

Diary No. 97	Enclos. File (To be returned) Spare Copies.	Serial No. 1

BRIEF ABSTRACT OF LETTER.

Submits the entire correspondence connected with the case of ne. Madura, a driver of the Imperial Service Transport Corps who was required by the City Magistrate to be caused to be produced before his court and states that as the Dist: Magistrate does not understand the Mysore Military Regns. and that an appendix may be attached to the said Regulations

NOTES AND ORDERS.

Submitted to the General and Revenue Secretary for the file being dealt with in Branch III and a note put up

Initialled G.S.B. 29-6-06

NOTES—First sheet.

MGCPB—30,000—17-2-05.

Serial No. 2

~~Submitted.~~ Submitted,

Submitted – One Madurai, a driver of the Mysore Imperial Service Transport Corps, was found drunk and riotous on the public road on 11.3.06. The City Police arrested and released him on bail. A Summons was issued through the Superintendent of the Govt Stables, which was returned unserved by the Supdt of the M. I. S. Transport Corps on the ground that the accused has to be dealt with under the Mysore Military Regulation of 1899.

A reply was again sent to him that the offence in question was not committed by the man while on duty, to come under the purview of the said Regulation; and this was replied to by Mr. Simpson not ~~by~~ as the Supdt of the M. I. S. Transport Corps, but in the capacity of "Supdt of Govt Stables", who was not the competent officer to try offences under the Military Regulations and to reply the reference in question.

The City Magistrate thereupon referred the matter to

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the District Magistrate of Bangalore as the case raised the question of jurisdiction between the Civil and Military authorities, which required a definite ruling by Government.

The District Magistrate who concurred with the City Magistrate, referred the case to the Secretary to Govt: in the Military Dept: for issuing ~~needful~~ ~~matter~~ instructions in the matter.

Lt: Col: Jones while submitting his memo under disposal, states that an appendix proposed by him may be attached to the Mysore Military Regulations, Viz:-

(A.) To hand over all cases which do not include misconduct on the part of ~~the~~ Civilians, to the Military authorities

(B.) and to try cases in which Civilians share the crime, by Civil & Criminal Courts.

According to Lt. Col: Jones, it is not the occasion that settles who should try the offender If in a case there is the likelihood of Civilians being implicated, it is advisable to have a Civil

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trial, the reason being that the Civil Court can mete out justice to both the Military and the civilians as well.

The opinion as regards jurisdiction of the Civil Magistrates is, that, if the offence is committed while on duty, the man should be tried by the Military authorities, and that on other occasions, he must be tried by the Civil Courts.

Submitted for orders with a copy of the Mysore Military Regn 1899; the Indian articles of War; Army Regns, India, Vol II.

CRO 20.7.06

NRL 20.7.06

N

3. A careful perusal of the Mysore Military Regn. 1899, shows that Para 2 of the Rules for the punishment of Crime gives only the definitions of expressions that occur in the rules, and is not an exhaustive list of military offences, as one might be led to think from the opening sentence "the following are military offences". In fact this opening sentence ought to be removed from the para; for, as it stands clause 47

4

Put all Hodgson in clause 45 7.0.21. K.S.C. 22/7/06

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which defines the expression "Chief Commandant" would come under "military offences". The fact that several offences which are not mentioned in para 2 are referred to later on shows that para 2 does not give a full and complete list of military offences. For instance, Gambling or neglect or maltreatment of a horse which are referred to in para 3. as crimes which officers commanding may deal with are not mentioned in para 2.

4 The terms "Drunkenness on duty" and "Habitual drunkenness" are mentioned in para 2. because they require definition and not because ordinary cases of drunkenness off duty are not crimes under military law. Such ordinary cases of drunkenness are provided for by para. 3, under which such cases may be dealt with by commanding officers. It will thus be seen that the offence with which the accused Nadarai is charged is one punishable under military law.

5 The case is thus both a military offence and a civil offence. As the law now stands, there does not seem to be anything to prevent a civil tribunal from

Note—Contn. sheet

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taking cognizance of military offences ~~when~~ where they are also offences under the civil law (e.g. ~~cases~~ offences defined in para. 2 clauses 14, 23, 25, 26, 27, 29, 30 etc of the Rules for the punishment of Crime - Mil. Repr. 1899) As our Criminal Procedure Code does not contain a section corresponding to sec. 449 of the British Indian Code (Act V of 1898), under which Govt. could made rules on the subject, it appears necessary as suggested by Col. Jones to add a few sections to the ~~Mili~~ Military Repr. 1899 defining and limiting the jurisdiction of military and civil tribunals in cases of such offences ~~Advantageous~~.

Letter to Sec.

Sec'y. 22.7.06.

6. P.S. In the present case, as the ~~Mili~~ civil tribunal has also jurisdiction, and has already ~~alrea~~ commenced proceedings, the Military Deptt. may, I think, be asked to deliver up the accused for trial to the City Magte

Sec'y. Sec'y 22-7-06

7 The remark which I have indicated by a Cross (X) does not seem to be correct. The refce to S. 449 should be to S. 549. Our Code of Cr. Proced does contain a corresponding section,

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Which enables Govt to make rules as to the cases in which persons subject to military law shall be tried by the ordinary Courts or by Court-martial.

A Please put up the British Army rules & see if they can be adapted for our purpose.

B In other respects I agree with the Hon'ble Member. In lieu however of omitting the first sentence I propose & would insert a definition that "'military offence' is an offence punishable under the provisions of these Rules." But first please send the places where the expression occurs in the body of the Regn. - K.S. Hand Lee Warner 24.7.06

A These rules were published in the Gazette of India 1887 Pt I. p. 387. Please put up.

B. Attend to this please. 11-7-06

Submitted with the above mentioned references - the places where the expression "military offence" occurs is marked in pencil.

CRB 8-8-06

MLL 8-8-06

Q. The expression "Military offence" occurs in the Military Regn. in 4 places viz pp. 2, 6, 15 & 20 (marked

Note—Contn. sheet

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is red ink.

10. A copy of the notfn. issued by the Governor-General under Sec. 549 of the Criminal Procedure Code is put up. This can easily be adapted for our purpose as well.

There are Calcutta Rules under the Act proposed under Sch. II of the Army Act, 1881 & S.C

11. The Governor-General's notification however refers only to military offences that are triable by Court-Martial: but there are petty military offences (like the present case) which are not triable by Court-Martial*. I do not know whether there would be any objection to make these rules applicable to all military offences whether triable by Court-martial or not, except in cases where the offences are committed against or in company with civilians, in which case, trial by a civil tribunal would perhaps be more suitable.

K. Matthan
13.8.06

See 9

12. There is this difficulty; but possibly it could be got over by declaring that for the purpose of the notfn (or rules) the expression "Court-martial" includes every authority competent to try a military offence under the Army Military Regns, 1899.

Note—Contn. sheet

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13 Please put up a draft notfn under s. 549 of the Cr. P. Code, outlining of the notfn in force in British India. ~~Also~~

14. As regards amending section 2 of the Military Deptt (Deptt of Military Affairs) matter can lie over for another opportunity, as it involves legislation and a reference to the Residency

15 An order should also be applied regarding the disposal of the particular case of the transport driver under the rules (proposed & the issued) — K.S Chandrasekhara Rao 25/8/06

Please put Cri. Pro. Code (Mysore)

25/8/06

Rec'd 27/8/06.

Subd.

28/8/06

1. Please put up a typed copy of the draft notfn ~~put up~~. (78 V).

2. Also get a copy of the Army Act, from the Mil. Instl. Office.

Off to appl.

28-8-06.

10

Subd.

1. Typed Copy of the draft notification a put up as directed.

2. The Military Instl's office say that they have not got a copy of the Army Act. This Act is not issued

NOTE—Contn. sheet

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amying the unrepealed laws of the Governor-General in Council.

SW
31/8/06

16. At pages 158+159 of the Army Regs Vol II two sets of rules are given, one relating to persons ~~under~~ subject to the Army Act (this is an act of Parliament & relates to the British Army) and the other to persons subject to the Articles of War which more or less correspond with our ~~Act~~ Military Regs of 1849. ~~except that the words "Army Act" ... have been substituted~~ I submit both sets of rules ~~as~~ with the necessary modifications. ~~We have~~ Either may be adopted.

17. But the rules ~~relat~~ which can be made under ~~Act~~ section 549 of the Cr. Pr. Code, relate to offences triable by a civil tribunal or by a Court-martial. Whatever definition we may give to the term "Court-martial" in the rules, it won't affect the meaning of the term in the Criminal Pro. Code & we cannot therefore make rules under that Code regarding offences not triable by Court-Martial. ~~But there is another thing about offences~~

Note—Contn. sheet

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As the rule stand we now propose to publish under sec 549 will not affect the disposal of cases like the present which are not triable by Court Martial, we have to pass an executive order (from the Military dept) modifying the powers of military officers by requiring them in certain cases to send the accused for trial before a civil tribunal. A draft Notfn is put up. Also a draft order for the particular case (for issue from Military Audr's office)

R. Matthan
D-G-P

18. As personally instructed by the Secy, I have altered the draft notfn. to be issued under the Military Regn. Of the 2 drafts under sec 549 Cr. Pr. Code draft I appears more suitable.

[The delay in resubmitting this file was due to pressure of work in connection with the Durbar]

R. Matthan
17.10.05

Secy

G.R.S. 12j

General and Revenue Secretariat.

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19 Three drafts are subd for approval

1) A notifn in exercise of the power conferred by section 549 of the Code of Criminal Procedure. This will apply to cases which are triable by a Court-Martial as well as by a Criminal Court. The Cr. Pro Code does not give power to prescribe similar rules in regard to military cases triable by military officers as distinguished from Courts Martial. Misclass of cases has therefore to be dealt with, as best we can under the power given by para 35 of the Rules contained in the Mysore Military Regns II of 1899.

2) A notifn is issued directly under para 35 aforesaid, prescribing similar ~~restrictions~~ procedure as in the first notifn, but applicable to military officers, instead of to Magistrals. We have no legal power, as already pointed out

a The draft is based on similar rules in force in British India vide pp 150 of Vol II of the Army Regns (Appendix)

Note—Contn. sheet

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to repeal the acts of Criminal Courts in respect of the class of cases) —

3) An order ~~[illegible]~~ dispensing with the particular case of the driver Maduras

20 draft no 1) maybe sent from the Legislative Board & drafts nos 2) & 3) from the Military dept

21 * The Military Assistant may first be consulted as to whether he thinks the drafts are all right, & the matter then placed before the Council

K.S. ? na Ayyasekara Aiyar. 21/10/06

25-10 X 22/10/06

22 This maybe done

B.O. C.S. Balasundaram 23/10/06

23 To the Military Assistant to Government for favour of opinion. M. Chandrasekharam 26/10/06 Secy to Govt, Legislative Dept

G.O. No. 1 dt 22.10.06

G.O. No. 2 dt 27/10/06

Read 27-10-06

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J-1672

Sept/24. As desired I note below.

I think from page 11 of these notes that the Military procedure is not quite understood.

When a man is riotous and drunk off duty it is quite easy to try him by Court-Martial for conduct prejudicial to good order.

I note this more especially with regard to the remarks on page 8 as petty offences may by constant repetition or the place wherein performed become acts to the prejudice of good order and be tried by Court-Martial.

So trial by Court-Martial merely becomes a question of framing the charge and punishment follows if it is proved to the Court that the prisoner has been guilty of conduct coming within the meaning of the above terms.

I have already stated the advantage of occasionally trying soldiers by Civil Courts.

I think however when dealing with this matter it is well to keep in view the reasons for Military Law and Regulation apart from Civil Law, namely to enable legal punishment to be given to a soldier for offences which are purely Military or if Civil offences require in the interest of discipline harsher treatment than would be meted out to the mere Civilian, and also to enable Militar cases of offence to be dealt with quickly by the Officer Commanding the defaulter without the delay that invariably takes place with Civil trials, thus enabling the man to return quickly to his Government duties.

For this latter reason detention by Civil authorities is always a mistake, while in Military custody prisoners can if required to do so, groom their horses

and do their work under superintendence but if lodged in the Police guard they are of course not available for Government duty. Fresh hands have therefore to be entertained at extra cost or the work neglected and Government therefore is bound to suffer by such detention.

Moreover, it is not in the interests of the self-respect that one tries to give the soldier that he should be submitted before trial to the indignity of confinement with thieves and other misdemeanants.

It is therefore advisable for the above reasons to relegate the trial of Military offenders whenever possible to their own officers and own Courts.

I am not at all certain whether it is necessary to issue any Notification such as proposed. I am not acquainted with the procedure. Possibly Government could through the High Court issue an order to subordinate Courts and Magistrates directing that all Military Offenders should be handed over for trial to their own Officers.

no urgency, nothing for this. K.S.-C

Under such rules the Civil Court might when handing over notify the fact to Government and the Military authorities might be ordered in such cases as are thus relegated to them to report them to Government for orders with suggestions for disposal.

An order of this sort would possibly work better than the Notifications put up as it would leave the selection of the Court to Government while the Military would arrange for the custody of their Departmental offenders.

If however the above is impracticable Notifica-

Notification No I seems alright though Rule 5 of that order may require an addition directing the Military authority to report the action taken in regard to the Offender to the Magistrate who transferred the case.

I do not see that Notification No II is required. Applications for trial by Court-Martial have always to be made to Government and if in the reported case it is thought a Civil Trial would be preferable Government can so direct.

No III may I think issue.

31.10-06.

(R. G Jones, Lt. Col.)

Serial No.

Subd for orders
SW
2/11/06

25 I had no misapprehension about the Military position. When drunkenness is habitual it is triable by Court-Martial, but in cases like the present where there is no indication that it is habitual, it is not so triable. And it is just these classes of offences (that are not triable by Court-Martial) that cannot be dealt with under Sec. 549 of the Cr. Pr. Code.

26 In draft no II, the powers of Military officers are considerably restricted. After reading Col. Jones' note, I think that petty Military offences also should generally be dealt with only by Military officers, and only occasionally and in special circumstances by Civil tribunals. If draft II is issued, it will be desirable to issue instructions to all Magistrates that unless there is good reason to the contrary the case should be left to the Military officers for disposal. [A Magistrate would however be not legally bound by such instructions: but it may be presumed that the instructions will be obeyed.]

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27 Fee additions indicated by Col. Jones as necessary to be made to Rules of draft I has been made K. Mathan. 5.11.06

28 As important questions of the ~~mutual relations~~ powers of Civil Tribunals & military officers in regard to the trial of persons amenable both to criminal & military laws are involved, the papers are forwarded to the Registrar of the Chief Court with a request that the Court may be favoured with the views of the Chief Court in the matter, and particularly as to the suitability of the draft Rules herein— 7-11-06 Mchandrasekharan Secy to Govt

U.O. 726 7.11.06

Ltr 1144 2.24

In K 7.11

29 The file is returned unacted with copy of the Minutes of the Judges herein. 12.2.7. Regr attached Regr C.Ch

MGCPB—50,000— 24-7-05

30. I find that notification marked 1 is drawn up nearly as in a Government of India notification on the subject. The military law referred to therein seems to be better defined in the Indian Articles of War than in our Military Regulation. This defect may create some difficulties in the administration of these rules.

31 The Indian articles do not contain an enumeration of military offences as in our Regulation; 'offences' and 'Civil offences' are defined in the Indian articles, and the plan adopted by this Act makes it much easier to discover the limit of each jurisdiction. Title 11 is concerned with 'Military offences' and a number of them are named in successive sections (Art: 7 to 19) grouped under different punishments, and a general article is added empowering Courts Martial to take cognisance of unspecified "offences" (which include a Civil offence i.e., one triable by a Criminal Court) if they be prejudicial to good order and military discipline. (Art: 70) As there is no corresponding provision in our Military Regulation, the powers of the Military authorities are less extensive than in British India.

32. As far as I can understand the arrangement of the provisions in these enactments, sections 3 to 34 seem to be cases of offences which are not serious enough for Courts Martial. These are apparently the same as are provided for in Tit. IV of the Indian Articles (164 &c.). The Notification intended apparently does not cover such cases.

33. Neither in the British Articles nor in the Mysore Regulation is there any provision to exclude the jurisdiction of the ordinary Criminal Courts even in cases of offences falling under the Military Law. Section 5 of the Penal Code saves the special provisions of the Military Law from being affected by

the Penal Code. A general provision (section 26 of our general clauses Regulation III of 1899) prevents the same Act being subject to two different punishments. Section 549 empowers the Government to regulate the exercise of the jurisdiction of Criminal Courts so as not to conflict with the Military jurisdiction.

34. Section 39 of our Regulation lays down that Courts Martial shall be convened only in extraordinary cases; but the Indian Articles are more explicit and seem to lay down that all the 'Military offences' should be so dealt with. Is the object of the proposed Notification only to embrace such cases as are to be brought before a Court Martial? It is not clear from the Regulation what offences render one liable to be tried by Court Martial!

35. Draft Notification II seems to correspond to Articles 174 &175 of the Indian Articles. But is it intended to limit its scope only to such minor cases as are included in sections 3 to 34? These offences do not apparently fall under section 549 of the Criminal Procedure Code. It is difficult to see how any Magistrate can agree to take no cognisance of them. The difficulty would not arise in British India, as the Articles of War enumerate all these offences as are triable by Court Martial and so bring them within the purview of section 549 of the Criminal Procedure Code. Moreover the Articles of War are as binding on the Courts as the Criminal Procedure itself, whereas this Notification drawn up under section 35 cannot be held as binding on the Courts.

36. As for the case which gave rise to this correspondence, it seems to be clearly one falling within the Magistrate's jurisdiction and not within the Military jurisdiction, as 'drunkenness on duty' only is mentioned as a Military offence and it is apparent that the man was not on duty then.

37. I may perhaps add that when opinions are called for

it would add to definiteness of expression and save a lot of time (which we can ill spare) if the points are stated separately and clearly, instead of whole file being sent to us.

05-1-07. Sd/- H. V. Nanjundayya

marked No.1. 38. The draft Notification issued under section 549 of the Code of Criminal Procedure, is on the lines of the Notification issued by the Government of India under the corresponding section of the British Criminal Procedure Code and appears to me to be unobjectionable.

39. Draft Notification marked No.11 cannot, as the Secretary himself points out, have any binding effect so far as the Criminal Courts are concerned; and that being so, it will be difficult to make the rules work without friction. Supposing the Magistrate wishes to try the accused and the Military not being willing that he should do so, refer the case for the orders of Government, what power have the Government to take away the jurisdiction of the Magistrate and to decide that the trial shall be had before a Military Officer? In my opinion the Mysore Military Regulation,1899, should be amended by a section being added thereto in terms of Articles 174&175 of the Indian Articles of War and such an amendment alone would enable Government to effectually prevent the clashing of jurisdictions.

40. I would also observe, with reference to draft Notification No.11, that in line 2 of page 1, the word "rule" would be a better word to use than the word "paragraph".

41. I agree with Mr. Justice Nanjundayya that in the case out of which the present reference has arisen, the proper tribunal to try the accused would be the Magistrate and not the Military Officer.

6-2-07. Sd/- P. S. Krishna Rao

42. I have nothing to add to the remarks made by my learned Colleagues.

11-2-07. Sd/- Lewis Moore.

C.J.

(R 7 0

Serial No.

43. Mr Justice Krishna Rao's suggestion about the addition to our Military Regns of provisions corresponding to those contained in Articles 154 & 175 of the Indian Articles of War be adopted, it would obviate our passing either of the Notifns pursuant to which I have prepared a draft Regn having effect of the suggestion.

The question which tribunal should try the driver Madurai requires consideration. K.S

J.G.R.(K)
20.12.)
W. 20/12.

Council matter.

44. Driver Madurai may be tried by the City Magistrate

C 375/21-2-07.

45. The proposed draft Regulation based upon the notes Krishna Rao's suggestion may be settled & put in the way of enactment.

J. Ananda Rao
27 Dec

Circulate
L. K. S Chandra
[illegible]
W. 28/12

46. The Judges of the Chief Court

Note—Contn. sheet

Serial No.

are of opinion that Madurai should be tried by the City magistr This opinion may be accepted 4) The proposed Draft Regulation having for its object the remov of such difficulties in futu may be approved

K.K. Nambiar
2nd Joint Secy

2/3/07. 4/3/07
Delivered

Recd from the Under Secy letter Delivered on 20.1.07 4

48 Please see the addition I hav made to the draft Regln., viz the omission of the introductory words in Section 2, 1 the addn of Regln. 9 "military offence" & the Penal section - The reason for th is fully explained at pages 4 & 5 of the note.

49 Regl that this may also be approved K.S. Chandrasekhara Aiyar 21.3.07

50 Approved T. Ananda Rao 21/3/07 21/3/07

51 I concur K.K.N. 21/3/07

NOTE—Contn. sheet

GPB—50,000—23 10-05

Submitted to His Highness.

52 These papers relate to a question of jurisdiction raised by the City Magistrate of Bangalore in connection with the powers of Civil tribunals and Military officers in regard to the trial of persons amenable both to Criminal and Military Law.

Encl: to Papers under disposal

53 One Madurai, a driver of the Mysore Imperial Service Transport Corps, who was found drunk and riotous on the public road on 11th March 1906, was charged by the Bangalore City Police before the City Magistrate with having committed an offence under section 34 clause 6 of the Police Act. The City Magistrate issued a summons through the Superintendent of Government Stables, under whom the driver was employed, for his appearance before the Magistrate on 23rd March 1906, but the Superintendent returned the summons unserved stating that the case would be tried by himself under the Mysore Military Regulation. The City Magistrate then referred the matter to the District Magistrate for a definite ruling as to the question of jurisdiction in such cases. The District Magistrate pointed

out to the Military Assistant that as the offence in question was not committed by the accused while on duty, the case could not be tried by the Military authorities, and requested that necessary instructions might be issued for the production of the accused before the Magistrate.

54. The Military Assistant then referred the matter to the Dewan with his opinion that "drunkenness off duty" was triable by the officer commanding the Regiment summarily under Section 3 of the Mysore Military Regulation and he also suggested that following the practice in British India an Appendix might be attached to the Mysore Military Regulation directing that all cases which do not include misconduct against, or on the part of civilians should be tried by the Military authorities and that cases in which civilians are concerned should be tried by Criminal Courts. The matter was then referred to the Legislative Department for consideration and the opinion of the Chief Court was invited in this matter.

53. The Judges of the Chief Court are of opinion that there is no provision in the Military Regulation to exclude the jurisdiction of the ordinary Criminal

21

Courts even in cases of offences falling under the Military Law; that any executive order or notification that may be issued by Government under para 35 of the Rules contained in the Military Regulation regulating the trial of such offences will not have any binding effect so far as the Criminal Courts are concerned, and that the Military Regulation should be amended by a section being added thereto in terms of Articles 174 and 175 of the Indian Articles of War, as such an amendment alone would enable Government to effectually prevent the clashing of jurisdictions.

56. It has also been noticed that section 2 of the Regulation [redacted] requires a slight amendment.

57 The accompanying Draft Regulation embodies the amendments suggested above and the Councillors are also agreeable to the amendments therein proposed. The Draft Amendment Regulation may be approved.

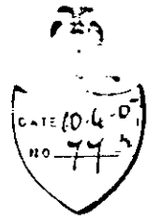
58 As regards the case which gave rise to this correspondence the Judges of the Chief Court consider that the proper tribunal to try the accused would be the Magistrate and not the Military officers. The Councillors also are of the same opinion. Necessary action

will be taken in this matter in due course.

V. P. Madhava Rao.

Record of Cases submitted for the Orders of His Highness the Maharaja.

Subject.



Draft of a Regulation further to amend the Mysore Military Regulation, II of 1899.

738

Order.

59. Approved

~~K R H~~

10/4/07

60. Done accordingly about the Order & then submit the draft of an explanatory letter to the Resident.

10/4/07

G.F S. 127

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61 Draft Notified. Sheet

Ker Matthan 4/5/07

JKS-NG 2/5/07

62 Done H.S. Srivastava 6/5/07 Dig-a

Two 1st/5

2 Govt Order No. 3242-43 of 20/4/07 to the District Magistrate & the Military Authority.

State that the proper officer for trying the case is the City Magistrate & not the Military authorities.

3 The Govt Advocate's No. 1551 of 5/5/07

Forwards for favour of the Member of Govt in India being obtained a draft Regulation further to amend the Military Regulation providing the procedure to be adopted in regard to cases triable by a Criminal Court & Military authorities.

Note—Contn. sheet

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dg File No. (of 1906-07

31

Serial No.

Legis 2/5

No. 3824.

T 2936

THE RESIDENT MYSORE

BANGALORE.

21st May 1907.

Dear Mr. Madhava Rao,

63. Will you kindly refer to Mr.Chandrasekhara Aiya letter Pol No.991, dated 9th May 1907, forwarding a draft Regulation to further amend the Mysore Military Regulation II of 1899, so as to regulate the procedure to be adopted in cases where Civil and Military tribunals have concurrent jurisdiction. It appears, however, to Mr.Williams that, by the issue of suitable rules under Section 549 of the Mysore Code of Criminal Procedure, the Durbar are already in a position to decide whether such cases shall be submitted to a Civil or a Military Court. Hence in his opinion the amendment of Mysore Military Regulation on the lines proposed appears to be scarcely necessary.

Yours sincerely

J. P. Ramé

V.P.Madhava Rao Esquire, C.I.E.,
Dewan of Mysore.

64. To Secy. G. & R. Depts

65. [illegible] 24/5/07

Note—Contn. sheet

GPB—40,000—12-5-06

G.R.S. 12]

General and Revenue Secretariat.

Legn File No. 1 of 1906

3 2

Serial No.

Adraft D.O. replyin put up for K. Mattu
28/5

Seen

Please submit fair copy of the D.
(with a copy of the draft Regln with the
corrections made) for the Secretary
signature K.S. Chandra Sekhara Aiyar
28/5

28/5

Subd with a fair copy of the D.O. & the Draft
Regulation

SW

4937
31/5/07 28/5/07

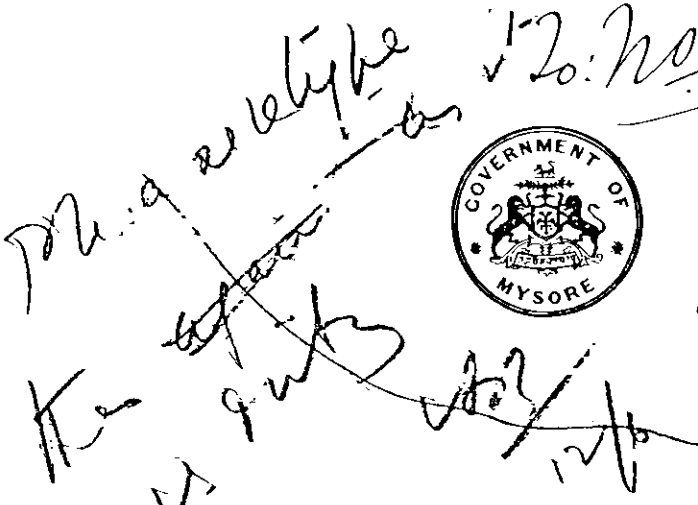
D.O. issued to Residency
for copy thereof herewith
herewith upon the file. & the file resubmitted -
16/6/07.
1852

Await reply from Resr

CSB
17/6/07

NOTE—Contn. sheet

GPB—40,000—12 5-06



66 Your D.O. letter No. 3824 of the 21st May 1907 regarding the draft Regulation to further amend the Mysore Military Regulation.

67 I am sorry that by oversight the reference to "Court Martial" has been retained in the Draft Regulation, instead of being changed to "Military authority" as it should have been in accordance with para 2 of the Durbar's letter of the 9th May 1907. I enclose a revised copy of the Draft Regulation to be kindly substituted for the one originally sent.

68 As regards the question whether the issue of suitable rules under Sec. 549 of the Code of Criminal Procedure would not enable the Durbar to regulate the procedure to be adopted in cases where Civil and Military tribunals have concurrent jurisdiction, I would

point out that Sec. 549 empowers the Government to make rules only in respect of cases of offences which may be tried either by a criminal court or by a court martial. Now under the Mysore Military Regulation, all military offences are not triable by court-martial. (vide paragraph 39 of the Regulation). There is a large class of offences (e.g. petty cases of assault and mischief, etc) which, under the military law in force, are not triable by courts martial, but have to be dealt with by Commanding officers without trial, and in respect of which therefore the Government cannot make rules under Sec. 549 of the Code of Criminal Procedure. It is to provide for this class of cases chiefly that it is now proposed to amend the Military Regulation, and in fact, it was in connection with a case of this kind that had actually occurred that the necessity for amending the Regulation was felt by the Durbar.

Yours Sincerely

(Sd) V. P. Madhava Rao

F. P. Rennie Esqre I.C.S
1st Asst Resident

Serial No. 4

From the Inspector-General of Police in Mysore
No. 4505-S 24/7/07

Suggests certain alterations in the draft at the instance of the Inspr General of Imperial Service Troops & states that if the Durbar will approve of these, ten copies of the revised draft Regulation may be forwarded for submission to the first of Dec

69 It is stated that the word "offender" occurring in the 5th and 6th lines of clause 55, 2. in the 2nd ~~clause~~ line of Cl 55(2) may be substituted by the words "accused person or "alleged offender", ; and the words "whose order upon such reference shall be final" occurring at the end of (Cl 55 (2), by the words about para "in the meantime postponing "all proceedings against the accused person-

70 "the order of first upon such reference "shall be final," shall be substituted.

71. Perhaps the word "officers" occurring in ~~the~~ para 2 of the Residency letter is a mistake for "offences".

72. The ~~draft~~ first para of the draft will have to be altered. The Resident seems to suggest that instead of the words the expression the following are military

—Contn. sheet

GPB—50,000—25.2-07

Serial No.

Offences from the Regulation and addn
& Art pena 48, as proposed, those word
may be retained and Rule 2 (47),
may be altered to Rule 2-A. This
may be done perhaps by altering
para 1 thus:—

"1. In the figure "(47)" appearing
at the end of paragraph 2 of the
Mysore Military Regulation, 1895, substi-
tute the figure & letter "2 A."

Draft for orders. (vide pencil Corrections in the
draft Regulation)

JK 3 26/7

24/7/07

72 The draft Regulation
may be revised as proposed - Put
up a draft as revised.

29.7.07. K. Narasimha Rao.

73 Draft put up.

JK 5/8/07 5/8/07

74 The draft is approved
Put up a draft letter to the Resident

6.8.07. K. Narasimha Rao

Legislative

75 Draft put up

8/8/07 9/8/07

76. Draft Regulation to-
gether with a letter to the
Residency submitted

9.8.07

Scott

77 The alterations suggested by the
Resident may be accepted Draft Notifn
to Devanam for approval

3795/07
24.8.07

Translation

J. A. Narasimha Rao

21/8

NOTE—Contn. sheet

G.R-S. 12]

General and Revenue Secretariat.

Mgs File No. 1 of 1906

36

Serial No.

78. Submitted to the Dewan
30·8·07
K. Mylar Rao.

6100
30/8/07

79. Dewan's order.
Please circulate to Council.
C Mallaiah 31/8

Circulate
2/9.

80. Submitted to the Council
2·9·07.

81 Seen. Draft may be
K.P. Puttanna Chetty
3/9/07 approved

82. Submd to Dewan after circulation
6202
5/9/07
3/9

MGCPB—20,000—1-11-04.

Submitted to His Highness.

83 The draft of a Regulation further to amend the Mysore Military Regulation II of 1899 was approved by His Highness in order dated the 10th April 1907. The draft was forwarded to the Residency for obtaining the sanction of the Government of India to the proposed legislation.

84 The Residency has suggested for the consideration of the Durbar a few minor alterations in the draft. These have been approved of by both the Councillors and are embodied in the revised draft here with submitted.

85 The revised draft and the accompanying draft letter forwarding it to the Residency may be approved.

V. P. Madhava Rao
8/4/1907

Record of Cases submitted for the Orders of His Highness the Maharaja.

Subject.

213

Draft to Residency forwarding the draft of a Regulation further to amend the Mysore Military Regulation II of 1899.

220.

Order.

86. Approved

~~KRW~~

12/9/01

207

15/9/07

14/9/1907

87. Issued

1629

16.9

Serial No.

5 To the Resident in Mysore No. 6843 dd 28/7
& 7/11/07 19/9/07.

Accepts the suggestions and forwards
10 copies of the revised draft Regulation
6 from the same office No. 6843 & 7/11/07.
forwards the sanction of the
Government of India.

8 S.N.J. 88. The sanction of H.H. the Maharaja has now to be obtained for the draft being promulgated as law. Submits with a fair draft of the Regulation approved by the Govt of India

JKS 9/11/07 SN 11/11/07

89 Submitted to the Secy. 11.11.07. K Mysore F&O

93. Submitted to Dewan for sanction of H.H. the Maharaja being obtained for the promulgation of the Regn.

CSB 12.11.07

4-C

Submitted to His Highness.

91 The draft Regulation further to amend the Mysore Military Regulation II of 1899, approved by His Highness in order dated the 12th September 1907, has been sanctioned by the Government of India.

92 Sanction may be given for the promulgation of the Regulation as law.

V.P Mai
18/10/08

4-1

Record of Cases submitted for the Orders of His Highness the Maharaja.

Subject.

ST-107
360

Sanction for promugating:-the Regulation further to amend the Mysore Military Regulation II of 1899.

Order.

365

93 Sanctioned

KRW

19/11/07

21/11/07

94 Issue

22/11 23-11

G. R. S. 12]
General and Revenue Secretariat.

Leg File No. 1 of 1906.

Serial No.

95 Submitted with a draft of an order promulgating the draft Regulation a law, for approval

JKS 23/11/07 95 MW 07

Issue

25.11.07.

K Nielsen

[illegible]

7. To the Compiler, Mysore Gazette. No J 1684 d 30/11/07

Promulgates for general information the Draft of a Regulation further to amend the Mysore Military Regulation which received the assent of H.H. the Maharaja on the 19th Nov. 07.

To the Military Assistant, No 1685 d. 30/11/07

Forwards copy of the above for information in continuation of G.O. No 3242-43/Leg 1-66-2 dated the 20th April 07.

NOTE—Contn sheet.

GPB—50,000—17-3-07

1145/27.6

Serial No 1.

Memorandum

Military

No 273

Dated 26 June 1906.

Subject.

Power of Civil Courts to try offences committed by men subject to Military Regulations

- - - - - - - -

I submit the enclosed correspondence connected with the above subject.

The District Magistrate does not quite understand the Mysore Military Regulations.

The reason that the Regulation in Clause 19 referred to by him mentions Drunkenness on duty is merely to define what that offence is.

Later on you will see "Habitual Drunkenness" is defined as 4 times drunk in a month.

The minor offence of Drunkenness Off Duty is not dealt with by Court Martial but by the Officer Commanding the Regiment summarily. (See his powers-Page 7 of the Mysore Military Regulations.)

The British Indian Articles of War lay down certain offences as triable by Courts Martial & Civil Courts (e.g. Theft from a Civilian) and say that in such cases if there is likelihood of civilians being implicated it is advisable to have a Civil trial the reason being that the Civil Court

can control and punish the Civi-lians as well. In other cases as a general rule the soldier is tried by his own Officers. In fact the Magistrate is warned by the Army Regulations India not to proceed with a case against a soldier until he has given the Officer Commanding 5 days notice.

In the event of competent Military Authority directing the trial of the prisoner by Court-Martial the Magistrate can if if he wishes to try the case him-self refer to Government. It is also laid down that in certain specified criminal cases the Lt General Commanding has the power to order trial by Court Martial.

From the above you will under-stand the general practice is

(A) To hand all cases which do not include misconduct on the part of civilians, to the Military Authorities,

(B) and to try cases in which civilians share the crime, by Civil Criminal Courts.

(Please see A.R.I. Vol II Appendix IX Page 159.)

I think that an Appendix to our Mysore Military Regulations might be attached directing Civil Courts to act as I have noted in paras (A) & (B) above.

R. Lowe Lt. Col.
Military Assistant.

Bangalore District

District Magistrate's office

Dated 30th May 1906

No. J 1297 Imperial

Ser. 3.

3376
30-5-06

From:

D. Devaraj Urs Esquire,
District Magistrate
Bangalore District

To.

Lieut. Colonel R. G. Jones,
Secretary to the Government of Mysore,
in the Military Department
Bangalore.

Sir,

I have the honor to state that Abdulla a driver of the Mysore Imperial Service Transport Corps, Bangalore was drunk and riotous on the public road. The Bangalore City Police ——— arrested the man, but released him on bail. A charge sheet was placed before the City Magistrate, charging the driver under section 34 clause 6 of the Police Act. The City Magistrate forwarded summons to the Superintendent

Mysore Imperial Service Transport Corps, Bangalore, for service against the accused, as under the Military Regulation of 1899, the accused's act is not one triable by a Court-martial, the offence not having been committed by the accused while on duty, as described in clause (19) to Section 2 of the said Regulation. But that officer returned the summons received and requested that the witnesses may be caused to be placed before him and the accused would be dealt with under the Mysore Imperial Service Regulation. The Military Magistrate again made a reference to that officer saying that the offence in question was not committed by the accused while on duty and hence the case in question cannot be taken cognizance of under the provisions of the said Regulation by the Military Department, and the accused might be caused

to

4

to be produced before the court for trial. This reference was replied to by the Superintendent-Government Stables, who, I believe is not the competent officer to reply the reference, and this reply was to the effect that the accused should be tried by the Military Department.

The above circumstances have therefore necessitated me to make this reference to you and I request that needful instructions may be kindly issued early.

The entire correspondence ending with the Military Magistrates letter no 497 dt. 3 is herein enclosed for information and kind return whereof I am

I have the honor to be
Sir,
your most obedient servant

L. Krishnacharya
for District Magistrate
Bangalore District

1905-06
0-4-06

P. J. 865
Enc 3.

No 497
Encl 3.

City Magistrates Office
Bangalore
19th April 1906

From C. V. Balasundaramayer Esq.
City Magistrate,
Bangalore,

To.
D. Devanujiers Esq
District Magistrate,
Bangalore

Submit to Dn.
for orders with reference
20/4

Sir,

I have the honor to state that the City Police charged one Madurai a driver of the Mysore Imperial Service Transport Corps Bangalore, under section 34 Clause 6 of the Police Act, for having been found drunk and riotous on the public road on the 14th instant. He was arrested and released on bail of Lyed Heralim, Duffadar Major, Transport Lines, and a summon was sued through the Superintendent of Government

stables for his appearance on 23rd March 1906.

2 The summons was returned unserved with letter No 1171/JD 530 dated 24th March from the Offg. Superintendent Mysore Imperial Service Transport Corps stating that he would deal with the accused under the Mysore Military Regulation 1899.

3 To this, a reply was sent to this Office No 4664 dated 30th March requesting that the accused might be sent to this Court for trial. To this the Superintendent Government Stables has replied in No 1256/JD 504 returning the summons unserved and stating that the case will be tried by him under the Mysore Military Regulation of 1899. Copies of the Correspondence are forwarded for information

4 The Mysore Military Regulation

of 1899 provides Rules for the
better discipline of the Mysore
Imperial Service Cavalry
and Transport Corps, and makes
punishable certain offences
defined in section 2 of the Regulation
The said two offences are named
therein, which are relevant to the
present matter are item No 19 on
Drunkenness on duty and item
No 37 Habitual Drunkenness.

5. Drunkenness on duty is defined
as intoxication with Spirits or drugs
when on or warned for any duty
or on parade or the line of March
and habitual drunkenness as
intoxication more than four
times in three months.

6. The offences enumerated
in section 2 do not include
any other kind of drunkenness
as an offence. In the present
case the man Madurai is
not charged with habitual

drunkenness, & or with drunkenness
on duty. He is not elected by Mr Simp
on the letters upon the top line in
either of his usual Capacities—
Offg. Superintendent Imperial
Imperial Service Transport
Corps, or Superintendent Cork
stables— that the was on leave
on or warned for any duty or was
on parade on the line of March
when he was found drunk and
riotous and arrested by the City Police.
I am not sure, sure that
Maduma's Offence fills under
any of the Offences enumerated
in section 2 of the Military Regulation
and within the Cognizance of the
authorities empowered thereby
to try such offences It seems to me
that Maduma's Offence is only
one against section 34 of the Police
Act. Further however the Military
Regulation or any other rule
or order of the Government or the

Chief Court provides that offences which are offences against ordinary Criminal Law committed by men of the Mysore Imperial Service Cavalry and Transport Corps, should be taken out of the Jurisdiction of the Civil Authorities in cases, where such Civil authorities have jurisdiction, and that such offences should only be tried under the Military Penal Code by the authorities empowered thereunder.

Q. Is there in the case of soldiers of the Indian Army that any such limitation of the jurisdiction of the Civil authorities has been laid down in Notification No. 418-C35-4 dated 27th August 1905 In the absence of any such limitation as regards the men of the Mysore Imperial Service troops, &c., I submit that the Military Authorities cannot claim to exercise the

Abrogated by Article 372 W

ordinary Jurisdiction of Criminal Courts where the offences in question are, as in the present case, offences against the ordinary law.

10 I have also to observe that the Cook letter from Mr Simpson has been written by him in the capacity of "Superintendent Cork Stables" and that no such officer is empowered in the Military Regulations to try offences under that Regulation.

11 In the present case, the charge against the accused, not a serious one and (perhaps) of a trifling little, whether he is tried and punished by me or by his departmental superiors. But the case is important in as much as it raises a question of jurisdiction, a question which may arise frequently and about which, it is necessary and desirable to have a clear and definite ruling by Government or the Chief Court

12 I therefore Request that you will Consider the matter and favour me with your directions as to the further disposal of the Case.

I have the honor to be
Sir
Your most Obedient Servant

Calcutta 14th
City Magistrate

J. No. 321
1906.

1906.

From The officiating superintendent
Mysore Imperial Service
Transport Corps.

To Bangalore—
The City Magistrate.

Dated 24th March at/ Bangalore.

Despatched

Received

General No. 1171
No. J.D. 530

Enclosures No. 2.

~~Sir,~~

With reference to your
No. 1484, dated 17th instant, I
have the honor to state that
the Police were told to produce
two of their witnesses before me,
which they have failed to do,
and I therefore request you will
kindly issue instructions for
evidence being placed before
me at the Orderly Room of the
A. Division, Mysore Imperial
Transport, old Sowari-Lines,

at 9 Am on Wednesday the 27th instant. The man is a driver in the Imperial Service Transport-Corps, and will be dealt with under the Mysore Imperial Service-Regulations.

The Summons is herewith returned.

I have the honor to be,
Sir,
your most obedient Servant.
(Signed) Simpson
officiating, Superintendent,
Mn. I.S.S. Corps.

True-copy.

J. H. Bacanandanaiyi
Ct. Incapatate

1906

From

The Superintendent,
Govt. Stables.

To

The City Magistrate.
Bangalore.

Dated 9th April 1906.

Despatched

Received

General No. 1256
No. J. D. 564.

Enclosure No. 4.

Sir,

I have the honour to invite your attention to this office No. 1171 J. D. 530 dated 24th ultimo, stating that the case will be enquired into by the Department under the Mysore Military Regulations (Vide II of the Regulations, laying down the Powers of Commanding officers and requesting that evidence

may be ordered to be placed before me for the purpose.

It is not imperative that the man should be on duty to try him under the Imperial-Service-Regulations so long as he is a soldier.

As regards this if you will kindly make a reference to the District-Magistrate of C and M Station who has a number of similar cases to deal with, he will let you know the procedure adopted there, but if you still have doubts, I would request you to kindly refer the matter to the Military-Assistant to the Government of Mysore with the whole of the correspondence.

The enclosures to your No. 1530 dated 24th ultimo, are herewith returned.

I have the honour to be,
Sir,
your most obedient Servant.
(Signed) Simpson
Superintendent
Government-Stables.

True-copy.

A Balasundaramayya
Cl Inspector

1906.

From The City Magistrate,
Bangalore.

To The Superintendent, Mysore
Imperial-Service,
Transport Corps,
Bangalore.

Dated 30th March 1906.

Despatched

Received

General No.

No.

Enclosure No.

This letter no 1171/530. Dated 24th Inst

From the Charge Sheet put in by the Police against Maduvie it does not appear that he was drunk on duty

Drunkness on duty and not on other occassions appears to be an offence punishable by the Imperial Service-Troops-Regulation.

It is therefore requested that the man may be directed to appear before this Court on Monday next for trial. (Signed) C.S. Balasundaramayya

City Magistrate

True-Copy.

C.S. Balasundaramayya
City Magistrate

Ale Serial No 2.

Proceedin[illegible] of [illegible] Govern[illegible]ent of His High-
ness the Maharaja of Mysore.

Read:-

Serial No 2

Letter No.J.1297 dated the 30th May 1906, from the District Magistrate of Bangalore, requesting that orders may be issued directing that one Madurai, a driver in the Mysore Imperial Service Transport Corps who was found drunk & riotous on the public road and was charged by the Bangalore City Police, before the City Magistrate with having committed an offence under Section 34(6) of the Police Act, may be handed over for trial to the City Magistrate, Bangalore.

Order thereon No. J 3242-43/Legis 1-06

Dated Bangalore, 20th April 06

The Government consider that the proper tribunal for trying the driver Madurai in this case is the City Magistrate, and not a Military Officer, as the offence of which he was accused was not committed on duty.

[illegible]

Secretary to Govt.

The District Magistrate,

Bangalore.

The Military Authorities

[illegible]

-R.S. 26]

File No.

Serial No 3

Diary No. of letter replied to

Serial No 3

Fol No. 991

Encl 1

General and Rev. Secretariat

( )

, *the* 190

To

The Z.A.R.

First Assistant Resident,

Date of issue 9-4-07

Signed by

for R.S. Chandrasekhara Iyer.

Sir,

I am directed to forward herewith a ~~draft of a bill~~ to further amend the Supreme Military Reg. II of 1899 and to request that the sanction of the Govt of India ~~for~~ to the draft Reg being passed into law may be obtained.

2. It has been found that the existing law ~~does not contain any provision corresponding~~ has been found to be somewhat defective in that it does not contain any provision, corresponding

over.

SUBJECT.

to [illegible] Articles of War, ~~& understands~~ regarding the procedure to be adopted in cases of offences which may be tried either by a ~~Court Martial~~ Criminal Court or by the Military authorities. ~~The draft Regl. seeks to~~ ~~effect~~ It is proposed to remedy this defect by adopting ~~the~~ Articles 174 & 175 ✗ annexed above with the necessary modifications

3. Opportunity has also been taken to remove an inaccuracy existing in Rule 2 of Regl. II of 1899. The word "The following are Military Offences" at the beginning of this Rule are inappropriate, as clause 47 of this Rule contains a definition of the term "Army Commandant". Hence word ~~at the beginning of the~~ are hereby proposed to be omitted, and in lieu of the definition of the Expression "Military Offence hereby added as clause 48. this Rule

List of enclosures.

Copied by

Examined by

Shaveste

Mr Secy

415

20,000-19-12—04.

Enclosure to Serial No 3.

Draft of a Regulation further to amend the Mysore Military Regulation, II of 1899

Preamble. Whereas it is expedient further to amend the Mysore Military Regulation, 1899, His Highness the Maharaja is pleased to enact as follows:—

Amendment of Sec. 1 of Reg^{n} II of 1899

1. In paragraph 2 of the Mysore Military Reg^{n} 1899, the words "the following are military offences" shall be omitted and the following definition shall be added at the end:—

"(48) — 'military offence' is an offence punishable under any of the provisions of these Rules."

Addition of Paragraphs 94 & 95 to Reg^{n} II of 1899.

2. The following paragraphs shall be added to the Mysore Military Regulation, 1899:—

Jurisdiction over certain offences.

"94. When a criminal court and a court martial have each jurisdiction in respect of an offence, it shall be in the discretion of the Govt. to decide before which court the proceedings shall be instituted, and if the Govt. decides that they shall be instituted before a court-martial, to direct that the accused person shall be detained in military custody.

Power of criminal Court to require delivery of offender.

95. (1) When a criminal court having jurisdiction is of opinion that proceedings ought to be instituted before itself in

respect of any alleged offence, it may, by written notice, require the officer to whose command the ~~officer~~ offender is subject at his option either to deliver over the offender to the nearest magistrate to be proceeded against according to law or to postpone proceedings pending a reference to the Government.

(2) In every such case the said officer shall either deliver over the offender in compliance with the requisition or shall forthwith refer the question as to the court before which the proceedings are to be instituted for the determination of the Govt, whose order upon such reference shall be final."

K.S. Chendrasekhara Iyer.

21.3.07.

Enclosure to Serial No. — Superseded by amended revised draft 64 — Original Draft

Draft of a Regulation further to amend the Mysore Military Regulation, II of 189[illegible]

Whereas it is expedient further to amend the Mysore Military Regulation, 1909, His Highness the Maharaja is pleased to enact as follows:- Preamble.

Adding paragraph 94 & 95 to Regn II of 1909.

2. The following sections shall be added to the Mysore Military Regulation, 1909:- Here enter para 1 marked ⊗⊗ on the next page & 6 paragraphs

Jurisdiction over certain offences.

"94. When a criminal court and a military authority have each jurisdiction in respect of an offence, it shall be in the discretion of the Government to decide before which of them the proceedings shall be instituted, and, if the Government decides that they shall be instituted before a military authority, to direct that the accused person shall be detained in military custody.

Power of criminal court to require delivery of offender.

"95. (1) When a criminal court having jurisdiction is of opinion that proceedings ought to be instituted before itself in respect of any alleged offence, it may, by written notice, require the officer to whose command the accused person is subject at his option either to deliver over the accused person to the nearest magistrate to be proceeded against according to law or to postpone proceedings pending a reference to the Government.

(2) In every such case the said officer shall either deliver over the accused person in compliance with the requisition or shall forthwith refer the question as to the court or authority before which the proceedings are to be instituted for the determination of the Government, who in the meantime postponing all proceedings

against accused pers '65

The order of the Government upon such reference shall be final."

V/5 N

Amendment of sec. 1 of Regln V of 1899.

In clause 2 of the Mysore Military Regulation I of 1899, the words "the following are military offences" shall be omitted and the following definition shall be added at the end:

"(48) 'military offence' is an offence punishable under any of the provisions of these Rules."

L 21.3.27

No. 4905/66 64

Serial No 4

From

F. P. RENNIE, Esq., I. C. S.,
FIRST ASSISTANT TO THE RESIDENT IN MYSORE.

To.

The Dewan of Mysore.

No 4905

Dated Bangalore, 24th July 1907.

Sir,

I am directed to acknowledge the receipt of Mr. Chandrasekhara Iyer's letter Pol No.991, dated the 9th May 1907, forwarding a draft Regulation to further amend the Mysore Military Regulation,1899(II of 1899) and in reply, to suggest, at the instance of the Inspector General of Imperial Service Troops, for the consideration of the Durbar the following alterations in the draft Regulation.

(1) In clause 95(1),5th and 6th lines,for the word "offender" substitute either"accused person" or"alleged offender",for choice the former.

(2) In clause 95(2) similarly substitute"accused person" or "alleged offender" for the word "offender" in the 2nd line and for the words "whose order upon such reference shall be final" in the 6th line, substitute the words and sub-para"in the meantime postponing all proceedings against the accused person"

"The order of the Government upon such reference shall be final"

2. The Resident agrees that the appending of the term Chief Commandant to the list of Military officers is open to objection

objection and I am to suggest that the defect should be removed by renumbering rule 2(47) as Rule 2 A.

3. If the Durbar approve of these suggestions, I am to ask that ten copies of the revised draft Regulation may be forwarded for submission to the Government of India.

I have the honour to be,

Sir,

Your most obedient servant,

J.P. Rennie

First Assistant Resident.

NNN

G.R.S. 26]

66.

~~Fair-draft~~ File No. 1-06

Serial No 5

Serial No 5.

Fol. No. 259

Encls: 10

Diary No. of letter replied to _____

General and Rev. Secretariat

( )

,, the 190

Date of issue 19-9-07

Signed by Jurbs. Balasundaramayya. ~~Lieut~~

To

The First Assistant to the
Hon'ble the British Resident
in Mysore.

With reference to your letter no. 4905 dated the 24th July 1907, regarding the further amendment of the Mysore Military Regulation 1899, I am directed to state that the Durbar accept the alterations suggested in the letter under reply, and to forward herewith 10 copies of the revised draft regulation as desired. I am to request that the sanction of the Government of India may

over.

SUBJECT.

1

Kindly be obtained at an early date for its being passed into law.

I have etc

Secretary

3/5/07

30/5/07

List of enclosures,

Copied by 8/5

Examined by

MGCPB—20,000-19-12—04.

Revised Draft 69

Draft of a Regulation further to amend the Mysore Military Regulation II of 1899.

Preamble.

Whereas it is expedient further to amend the Mysore Military Regulation 1899, His Highness the Maharaja is pleas-ed to enact as follows:-

Amendment of ~~section~~ paragraph 1 of Regulation II of 1899.

1. For the figure "(47)" appearing at the end of paragraph 2 of the Mysore Military Regulation,1899, substitute the figure and letter "2A".

2. The following paragraphs shall be added to the Mysore Military Regulation, 1899:-

Jurisdiction over certain offences.

"94. When a criminal court and a Military authority have each jurisdiction in respect of an offence, it shall be in the discretion of the Government to decide before which of them the proceedings shall be instituted, and, if the Government decides that they shall be instituted before a Military authority, to direct that the accused person shall be detained in military custody."

Power of criminal court to require delivery of ~~offender~~ accused person.

"95. (1) When a criminal court -- having jurisdiction is of opinion that proceedings ought to be instituted before itself in respect of any alleged of-fence, it may, by written notice, require the officer to whose command the accused

accused person is subject at his option either to deliver over the accused person to the nearest magistrate to be proceed-ed against according to law or to post-pone proceedings pending a reference to the Government.

(2) In every such case the said officer shall either deliver over the accused person in compliance with the requisition or shall forthwith refer the question as to the court or authority be-fore which the proceedings are to be be instituted for the determination of the Government, in the meantime postponing all proceedings against the accused person.

The order of the Government upon such reference shall be final."

J/226 Pol. 5-86
D 7-11-07

No. ~~6843~~ 71

Serial No 6.

FROM

F. P. RENNIE, ESQ., I. C. S.,
FIRST ASSISTANT TO THE RESIDENT IN MYSORE.

To

The Dewan of Mysore.

No 6845
Dated Bangalore, 7th November 1907.

SIR;

With reference to the correspondence ending with Mr. Balasundaram Iyer's letter No.259 dated the 19th September 1907, forwarding copies of a revised draft regulation to further amend the Mysore Military Regulation, 1899 (I of 1899), I am directed to say that the regulation is sanctioned by the Government of India, provided that the Governor General in Council retains over it the power and authority which rests in the Governor General in Council by virtue of article 19 of the Instrument of Transfer dated the 1st March 1881.

I have the honour to be,

S i r,

Your most obedient servant,

J F Rennie

First Assistant Resident.

72

G.R.S. 28]

Legis File No. 1-06

Serial No. 7

Diary No. of letter replied to J. 1224

Proceedings of the Government of His Highness the Maharaja of Mysore.

Serial No 7

GENERAL AND REVENUE SECRETARIAT.

( )

READ—

, *the* 190

ate of issue 30-11-07

Signed by Mr K. Nafar Rao

ORDER THEREON.—No. J. 1684 Enc 1

Legis 1-06-7

dated 30th Nov 07

S. No 7

The accompanying draft of a Regulation further to amend the Mysore Military Regulation II of 1855, which received the assent of His Highness the Maharaja on the nineteenth day of

over

SUBJECT

79

GPB—7,000—1-3-07

November 1907 ~~the~~ promulgated,
for general information.

JWW

Secretary

To

The Inspector, Ulster Special, for
information with a copy of ~~the~~ Regulation
No II of 1907. and for supply of
100 spare copies to the General and
Rev Secretariat 25 spare copies
to the Military Assistant.

Copy forwarded to the Military
Sec'y for information, in continuation
of. foot No 3112-48/Legis 1-06-2:
2, 28/11/07.

No J-1685 dated.
Legis 1-06-7
30th November 1907

D. O.

JWW

for Secretary

JWW
28/11

28/11
Rec'd 28/11/07

Ex & SW
28-11-07

REGULATION No. II of 1907.

(Passed on the nineteen day of November 1907)

A Regulation further to amend the Mysore Military Regulation II of 1899.

Preamble.

WHEREAS it is expedient further to amend the Mysore Military Regulation 1899, His Highness the Maharaja is pleased to enact as follows:-

Amendment of paragraph 2 of Regulation II of 1899.

1. For the figure (2) appearing at the end of paragraph 2 of the Mysore Military Regulation, 1899, substitute the figure and letter " 2 A ".

Addition of paragraphs 94 & 95.

2. The following paragraphs shall be added to the Mysore Military Regulation 1899:-

Jurisdiction over certain offences.

"94. When a criminal court and a Military authority have each jurisdiction in respect of an offence, it shall be in the discretion of the Government to decide before which of them the proceedings shall be instituted, and if the Government decides that they shall

be instituted before a Military authority, to direct that the accused person shall be detained in Military custody".

Power of criminal court to require delivery of accused person.

" 95. (1) When a criminal court having jurisdiction is of opinion that proceedings ought to be instituted before itself in respect of any alleged offence, it may, by written notice, require the officer to whose command the accused person is subject at his option either to deliver over the accused person to the nearest magistrate to be proceeded against according to law or to postpone proceedings pending a reference to the Government.

(2) In every such case the said officer shall either deliver over the accused person in compliance with the requisition or shall forthwith refer the question as to the court or